

MORRISON & FOERSTER LLP
MICHAEL A. JACOBS (Bar No. 111664)
mjacobs@mofo.com
MARC DAVID PETERS (Bar No. 211725)
mdpeters@mofo.com
DANIEL P. MUINO (Bar No. 209624)
dmuino@mofo.com
755 Page Mill Road
Palo Alto, CA 94304-1018
Telephone: (650) 813-5600 / Facsimile: (650) 494-0792

BOIES, SCHILLER & FLEXNER LLP
DAVID BOIES (Admitted *Pro Hac Vice*)
dboies@bsflp.com
333 Main Street
Armonk, NY 10504
Telephone: (914) 749-8200 / Facsimile: (914) 749-8300
STEVEN C. HOLTZMAN (Bar No. 144177)
sholtzman@bsflp.com
1999 Harrison St., Suite 900
Oakland, CA 94612
Telephone: (510) 874-1000 / Facsimile: (510) 874-1460

ORACLE CORPORATION
DORIAN DALEY (Bar No. 129049)
dorian.daley@oracle.com
DEBORAH K. MILLER (Bar No. 95527)
deborah.miller@oracle.com
MATTHEW M. SARBORARIA (Bar No. 211600)
matthew.sarboraria@oracle.com
500 Oracle Parkway
Redwood City, CA 94065
Telephone: (650) 506-5200 / Facsimile: (650) 506-7114

Attorneys for Plaintiff
ORACLE AMERICA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. CV 10-03561 WHA

**DECLARATION OF DEBORAH K.
MILLER IN SUPPORT OF ORACLE'S
REQUEST FOR ACCESS TO
ATTORNEYS' EYES ONLY
INFORMATION**

Date & Time: May 31, 2011 at 11:30 a.m.
Dept: Courtroom 4, 3rd Floor
Judge: Honorable Donna M. Ryu

1 I, Deborah K. Miller, state:

2 1. I am an attorney at law, licensed to practice in the State of California and before
3 this Court. I have personal knowledge of the facts stated in this declaration and could testify
4 competently to such facts if called as a witness.

5 2. I received my law degree from the University of California, Boalt Hall School of
6 Law in May 1980, and passed the bar in November 1980. I practiced law at Landels, Ripley &
7 Diamond as an associate from 1980 to 1986, and as a partner until June 30, 2000, when the firm
8 dissolved. Thereafter I was a partner at Barg Coffin Lewis & Trapp, LLP until April 2004, when
9 I joined Oracle as Senior Corporate Counsel. My work at the Landels and Barg law firms was
10 devoted to commercial litigation.

11 3. When I joined Oracle as Senior Corporate Counsel, I became a member of the
12 Litigation Group within the legal department.¹ The function of the Litigation Group is not only to
13 represent Oracle in litigation, but to assist internal clients to resolve disputes and avoid litigation.
14 In that capacity, I represented Oracle in disputes with customers, distributors, and partners. I
15 oversaw the work of outside counsel, drafted settlement agreements, and provided training and
16 advice to internal client groups. While I evaluated claims for breach of contract, I had no
17 responsibility for drafting commercial contracts. In the course of investigating a dispute, I
18 occasionally reviewed Oracle's marketing materials, but I had no input into preparing such
19 materials and I never provided advice to the marketing department. Similarly, while occasionally
20 people from the development organization provided information to me about a particular product
21 that was the subject of a dispute, I never provided advice to that group concerning product or
22 service development or design, product or service offerings, or research and development. Other
23 groups within Oracle's legal department provide that assistance.

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26 ¹ In the Oracle legal department, titles include "Corporate Counsel," "Senior Corporate
27 Counsel," "Managing Counsel," and "Associate General Counsel." The term "Corporate
28 Counsel" does not designate anything about the attorney's job duties, as all attorneys regardless
of what group they work in, have these job titles.

1 4. I represented Oracle in litigation against customers who were using Oracle's
2 software without paying for it. At no time, however, was I ever involved in making decisions
3 vis-à-vis Oracle's competitors in any of the areas listed in Section 7.4(a) of the Stipulated
4 Protective Order in this case.

5 5. In November 2007, when Dorian Daley took over as General Counsel, I was
6 promoted to Associate General Counsel and became the head of the Litigation Group. In my
7 current position, I manage the 18 members of the Litigation Group who handle all types of
8 disputes and litigation, including patent litigation (but not employment-related matters); review
9 all settlement agreements prepared by the attorneys; prepare quarterly reports to senior
10 management, insurers and auditors on significant claims against the company; hire and fire
11 attorneys and support staff; provide advice to members of the Litigation Group; assign attorneys
12 to matters; manage one very large litigation directly (*United States of America ex rel. Paul*
13 *Frascella v. Oracle Corporation*, Case No. 1:07-cv-529 (E.D. Virginia); prepare and manage the
14 budgets for the Litigation Group; manage our e-discovery program including negotiating
15 contracts with vendors; select outside counsel and negotiate the engagement of such counsel;
16 review all outside counsel bills; and evaluate requests for significant settlement authority globally
17 and make recommendations to senior management about such requests.

18 6. Settlements of patent infringement lawsuits typically include a patent license
19 agreement and therefore I review such license agreements when they are part of a settlement.
20 However, my job does not include drafting patent license agreements, and the only time I review
21 such agreements is in connection with a settlement or a dispute.

22 7. I supervise attorneys who are prosecuting or defending copyright and patent
23 infringement cases. I also supervise attorneys who are seeking to obtain payment from customers
24 who use Oracle's software outside the scope of their licenses, or who fail to pay for their Oracle
25 products or services.

26 8. Of the cases that I have managed or supervised (other than the present case), the
27 following have involved efforts by Oracle to enforce its intellectual property rights against an
28 Oracle competitor: *Oracle Corp., et al. v. SAP AG, et al.*, Case No. 07-1658 (N.D. Cal.); and

1 *Oracle USA, Inc., et al. v. Rimini Street, Inc., et al.*, Case No. 2:10-cv 00106-LRH-PAL (D. of
2 Nev.). In neither of these cases was I responsible for the decision to file suit. I am only involved
3 in managing and supervising the case in my capacity as an in-house litigator and head of the
4 Litigation Group. I continue to have no involvement whatsoever in competitive decision-making
5 in the areas of contracts, pricing, marketing, product or service development or design, product or
6 service offerings, research and development, or licensing, acquisition or other enforcement of
7 intellectual property rights.

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9 I declare under penalty of perjury that the foregoing is true and correct and that this
10 declaration was executed on May 26, 2011 at Redwood Shores, California.

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